

SENATE BILL

No. 58

Introduced by Senator Battin

February 26, 2001

An act to amend Section 42301.14 of the Health and Safety Code, and to amend Section 25552 of the Public Resources Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 58, as introduced, Battin. Electrical energy: thermal powerplants: permits.

(1) Under existing law, air pollution control districts, air quality management districts, and the State Energy Resources Conservation and Development Commission issue permits for the operation of powerplants. Existing law, the California Energy Security and Reliability Act of 2000, authorizes those districts to issue a temporary, expedited, consolidated permit for a thermal powerplant, under specified provisions. Under the act, a district is authorized to issue a temporary, expedited, consolidated permit, if among other things, the owner or operator of the powerplant demonstrates that the powerplant, on average, will displace electrical generation that produces greater air emissions in the same air basin or in a basin that causes air pollution transport into that basin.

This bill would delete the requirement that the owner or operator make such a demonstration to the district as a condition of the issuance of a permit under the act.

(2) The act requires the commission to implement a procedure for an expedited decision on simple cycle thermal powerplants and related facilities that can be put into service on or before August 1, 2001.

Existing law requires an application or an amendment to a pending application that qualifies for the procedure to be complete by October 31, 2000.

This bill would extend the date by which such a powerplant can be put into service to December 31, 2002, and would extend the date by which an application under the procedure is required to be complete to October 31, 2001.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42301.14 of the Health and Safety Code
2 is amended to read:

3 42301.14. (a) To the extent permitted by the federal Clean
4 Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section
5 65950 of the Government Code, a district may issue a temporary,
6 expedited, consolidated permit, as provided by Sections 42300.1
7 and 42301.3, for a powerplant within 60 days after the date of
8 certification of an environmental impact report, within 30 days
9 after the adoption of a negative declaration, or within 30 days after
10 the date of a determination that the project is exempt from Division
11 13 (commencing with Section 21000) of the Public Resources
12 Code, if all of the following conditions are met:

13 (1) The powerplant will emit less than 5 parts per million of
14 oxides of nitrogen averaged over a three-hour period.

15 (2) The powerplant will operate exclusively under the terms of
16 a contract entered into with the Independent System Operator and
17 approved by the Electricity Oversight Board established pursuant
18 to Article 2 (commencing with Section 334) of Chapter 2.3 of Part
19 1 of Division 1 of the Public Utilities Code.

20 ~~(3) The owner or operator of the powerplant shall demonstrate~~
21 ~~that the powerplant, on average, will displace electrical generation~~
22 ~~that produces greater air emissions in the same air basin or in a~~
23 ~~basin that causes air pollution transport into that basin.~~

24 ~~(4)~~ The powerplant will be interconnected to the grid in a
25 manner that the Public Utilities Commission, in consultation with
26 the Electricity Oversight Board, has determined will allow the
27 powerplant to provide service to a geographical area of the state
28 that is urgently in need of generation in order to provide reliable

1 electric service. However, nothing in this paragraph affects the
2 authority of the Energy Resources Conservation and Development
3 Commission over powerplants pursuant to Chapter 6
4 (commencing with Section 25500) of Division 15 of the Public
5 Resources Code.

6 ~~(5)–~~

7 (4) The powerplant will be operated at a location that has the
8 necessary fueling and electrical transmission and distribution
9 infrastructure for its operation.

10 ~~(6)–~~

11 (5) The owner or operator of the powerplant enters into a
12 binding and enforceable agreement with the district, and where
13 applicable, with the Energy Resources Conservation and
14 Development Commission, which demonstrates either of the
15 following:

16 (A) That the powerplant will cease to operate and the permit
17 will terminate within three years.

18 (B) That the powerplant will be modified, replaced, or
19 removed within a period of three years with a combined-cycle
20 powerplant that uses best available control technology and offsets,
21 as determined at the time the combined-cycle plant is constructed,
22 and that complies with all other applicable laws and regulations.

23 ~~(7)–~~

24 (6) Where applicable, the owner or operator of the powerplant
25 will obtain offsets or, where offsets are unavailable, pay an air
26 emissions mitigation fee to the district based upon the actual
27 emissions from the powerplant, to the district for expenditure by
28 the district pursuant to Chapter 9 (commencing with Section
29 44275) of Part 5, to mitigate the emissions from the plant.

30 ~~(8)–~~

31 (7) It is the intent of the Legislature in this section to encourage
32 the expedited siting of cleaner generating units to address peaking
33 power needs. It is further the intent of the Legislature to require
34 local air quality management districts and air pollution control
35 districts to recognize the critical need for these facilities and the
36 short life span of these facilities in exercising their discretionary
37 authority to apply more restrictive air quality regulations than
38 would otherwise be required by law.

39 (b) This section may be utilized for the purpose of expediting
40 the siting of electrical generating facilities pursuant to Chapter 6

1 (commencing with Section 25500) of Division 15 of the Public
2 Resources Code.

3 (c) This section shall remain in effect only until January 1,
4 2004, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2004, deletes or extends that date.

6 SEC. 2. Section 25552 of the Public Resources Code is
7 amended to read:

8 25552. (a) The commission shall implement a procedure,
9 consistent with Division 13 (commencing with Section 21000)
10 and with the federal Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.),
11 for an expedited decision on simple cycle thermal powerplants and
12 related facilities that can be put into service on or before ~~August~~
13 ~~4, 2004~~ *December 31, 2002* including a procedure for considering
14 amendments to a pending application if the amendments specify
15 a change from a combined cycle thermal powerplant and related
16 facilities to a simple cycle thermal powerplant and related
17 facilities.

18 (b) The procedure shall include all of the following:

19 (1) A requirement that, within 15 days of receiving the
20 application or amendment to a pending application, the
21 commission shall determine whether the application is complete.

22 (2) A requirement that, within 25 days of determining that an
23 application is complete, the commission shall determine whether
24 the application qualifies for an expedited decision pursuant to this
25 section. If an application qualifies for an expedited decision
26 pursuant to this section, the commission shall provide the notice
27 required by Section 21092.

28 (c) The commission shall issue its final decision on an
29 application, including an amendment to a pending application,
30 within four months from the date on which it deems the application
31 or amendment complete, or at any later time mutually agreed upon
32 by the commission and the applicant, provided that the thermal
33 powerplant and related facilities remain likely to be in service
34 before or during ~~August 2004~~ *December 2002*.

35 (d) The commission shall issue a decision granting a license to
36 a simple cycle thermal powerplant and related facilities pursuant
37 to this section if the commission finds all of the following:

38 (1) The thermal powerplant is not a major stationary source or
39 a modification to a major stationary source, as defined by the
40 federal Clean Air Act, and will be equipped with best available

control technology, in consultation with the appropriate air pollution control district or air quality management district and the State Air Resources Board.

(2) The thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(3) With respect to a project for a thermal powerplant and related facilities reviewed under the process established by this section, the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the thermal powerplant.

(e) In order to qualify for the procedure established by this section, an application or an amendment to a pending application shall be complete by ~~October 31, 2000~~ *October 31, 2001*, satisfy the requirements of Section 25523, and include a description of the proposed conditions of certification that will do all of the following:

(1) Assure that the thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(2) Assure protection of public health and safety.

(3) Result in compliance with all applicable federal, state, and local laws, ordinances, and standards.

(4) A reasonable demonstration that the thermal powerplant and related facilities, if licensed on the expedited schedule provided by this section, will be in service before ~~August 1, 2001~~ *December 31, 2002*.

(5) A binding and enforceable agreement with the commission, that demonstrates either of the following:

(A) That the thermal powerplant will cease to operate and the permit will terminate within three years.

(B) That the thermal powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.

(6) Where applicable, that the thermal powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air pollution control district or air quality

1 management district based upon the actual emissions from the
2 thermal powerplant, to the district for expenditure by the district
3 pursuant to Chapter 9 (commencing with Section 44275) of Part
4 5 of Division 26 of the Health and Safety Code, to mitigate the
5 emissions from the plant. To the extent consistent with federal law
6 and regulation, any offsets required pursuant to this paragraph
7 shall be based upon a 1:1 ratio, unless, after consultation with the
8 applicable air pollution control district or air quality management
9 district, the commission finds that a different ratio should be
10 required.

11 (7) Nothing in this section shall affect the ability of an applicant
12 that receives approval to install simple cycle thermal powerplants
13 and related facilities as an amendment to a pending application to
14 proceed with the original application for a combined cycle thermal
15 powerplant or related facilities.

16 (f) This section shall remain in effect only until January 1,
17 2003, and as of that date is repealed, unless a later enacted statute,
18 that is enacted before January 1, 2003, deletes or extends that date
19 except that the binding commitments in paragraph (5) of
20 subdivision (e) shall remain in effect after that date.

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